**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CR No.5658 of 2005**

**Date of Decision: 24.9.2007**

**Karan Singh**

**..Petitioner.**

**Vs.**

**Municipal Corporation, Faridabad**

**..Respondent.**

**CORAM: HON'BLE MR.JUSTICE HEMANT GUPTA**

Present: Mr.Adish Gupta, Advocate for the petitioner.

Mr.Manoj Sood, Advocate for the respondent.

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**HEMANT GUPTA, J.**

The challenge in the present revision petition is to the order passed by the trial Court on 13.5.2005 whereby an application filed by the plaintiff-petitioner for amendment of the plaint, was declined.

By virtue of the amendment, the plaintiff-petitioner wants to incorporate that in terms of Section 255 of the Haryana Municipal Corporation Act, 1994, the site plan submitted by him is presumed to be sanctioned. The learned trial Court declined such prayer for amendment on the ground that the plaintiff has sought amendment on the basis of conjectures and assumption and that no new facts have cropped up on the basis of which the plaintiff has sought the proposed amendment.

The plaintiff has filed suit for permanent injunction on the ground that he had applied for sanction of the building plan but even after more than 2 years, still no order in respect of the sanction of the building plan has been communicated. By virtue of the amendment, the plaintiff

wants to raise a plea that non communication of the order has given rise to deemed sanction of the building plan in terms of Section 255 of the Haryana Municipal Corporation Act, 1994.

The amendment sought by the plaintiff is in fact in respect of the legal presumption. Whether such presumption is available to the plaintiff or not is not required to be examined by the Court at the stage of considering the application for amendment. It can not be said that the amendment sought by the petitioner, is such which is wholly irrelevant and is in fact actuated by considerations of delaying the suit.

In view thereof, the order passed by the trial Court, suffers from patent illegality or irregularity and is, therefore, set aside. The plaintiff-petitioner is permitted to amend the plaint as sought for. The revision petition stands disposed of accordingly.

**( Hemant Gupta )**
**Judge**

**24.9.2007**
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